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*Citation for published version (APA):*

Herstein, O. J. (2020). Justifying standing to give reasons: Hypocrisy, minding your own business, and knowing one's place. *Philosophers Imprint*, 20(7), 1-18. <http://hdl.handle.net/2027/spo.3521354.0020.007>

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# **Justifying Standing to Give Reasons: Hypocrisy, Minding Your Own Business, and Knowing One's Place**

*Ori J Herstein*

## **1 INTRODUCTION**

Many everyday practices exhibit the normativity of standing. For example, one may ask a friend a favor, such as to drive her to the airport. In so asking, one gives one's friend a reason – which is the request – to drive one to the airport.<sup>1</sup> Nevertheless, if one is regularly unwilling to grant similar requests, it seems that one thereby loses what I call “standing” to make such requests, even if one is asking for what is a perfectly legitimate favor among friends. It is not that one's uncooperativeness voids the friendship – one may be a ‘bad friend’ but a friend nonetheless and, therefore, one's requests matter, as friends' requests do.<sup>2</sup> And still, given one's hypocrisy, there appears

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<sup>1</sup> There are of course other reasons to drive a friend to the airport, such as ensuring she does not miss her flight. My point is that the friend's request is – in and of itself – one such reason.

<sup>2</sup> Some accounts condition friendship on a measure of reciprocity and/or regard for the interests of one's friends. My assumption is that the ‘bad friend’ in the example still exhibits the minimally sufficient regard and/or reciprocal behavior to meet these conditions.

something problematic with the request, making it at least *prima facie* permissible to respond to it with “who are *you* to ask for that?” and then to simply disregard it.

What I call “standing practices” are therefore puzzling. They can involve what are otherwise meritorious interventions into one’s affairs that, nevertheless, one is licensed to disregard. For instance, as the example above suggests, although requests among friends are genuine reasons to do as requested, if the request is made hypocritically it seemingly becomes permissible to just brush it off. The main question this paper aims to answer is whether such familiar practices are ever at least *pro tanto* justified.

I begin descriptively with introducing in the abstract the normative structure that I label “standing” (Section 2). Next, the paper details categories of everyday practices manifesting this normative structure (Section 3). The paper then turns to its primary end of providing a framework for the justification of those practices, which I label “practices of standing” (Section 4). Upon exploring the limits of these types of justifications (Section 5), the paper summarizes (Section 6), and then closes with some reflections on the significance of understanding the concept and the justification of standing (Section 7).

## **2 DESCRIBING THE NORMATIVE STRUCTURE OF STANDING**

Broadly, in “standing” what I have in mind is a certain normative structure which regulates interventions into the affairs of others. From the point of

view of the intervener, standing norms set conditions under which one is under a duty *not* to intervene (for example, one ought not make hypocritical requests). And from the point of view of those intervened with, standing norms determine how they may react to interventions performed under those conditions. Namely, if standing's duty of nonintervention is breached, this triggers a *pro tanto* permission in the addressee to resist such interventions (for example, permitting disregarding a friend's hypocritical request).<sup>3</sup> As explained below (Section 4), the permission to resist is grounded in the same values that ground the duty of nonintervention, making resisting a kind of second-best option to the intervention having never been made in the first place. Now to the details of "standing."

Let's begin with the idea of intervention. Interventions come in many forms. These include material interventions, such as physical interference or psychological pressure, as well as normative interventions, which take the form of the giving of reasons. This paper focuses on *standing to give reasons for actions*. Yet, the paper's lessons are plausibly also applicable, *mutatis mutandis*, to other instances of standing, including standing to intervene physically or standing to give other types of reasons, such as certain reasons for belief or emotion. Still, as the paper is devoted to the giving of reasons for *actions*, those other scenarios are left unexplored here.

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<sup>3</sup> Deploying more technical terminology, standing norms involve an Hohfeldian "privilege" to disregard certain interventions.

Corresponding to these two primary forms of intervention – material and normative – the resisting of interventions primarily takes the form of either blocking or disregarding. ‘Blocking’ refers to material resistance, which is in accordance with the resisting of material interventions. In contrast, ‘disregarding’ involves discounting or even completely ignoring an intervention that takes the form of a reason for action that one is given by another. As such, disregarding is a type of resistance fitting *normative* interventions.

Briefly, we primarily give others reasons for actions through various types of speech acts, such as when commanding, requesting, claiming, or demanding.<sup>4</sup> A *valid* command, request, claim, or demand to *phi* is a reason for the addressee to *phi*;<sup>5</sup> a reason that was not in place prior to the performance of a speech act of the aforementioned type. Accordingly, such locutions apply normative force – sometimes even conclusive force – in favor of a particular action.

I call these types of reasons that we give through (validly) directing

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<sup>4</sup> For a more detailed discussion of reason-giving in the context of norms of standing see [redacted]. Ori J Herstein, ‘Understanding Standing: Permission to Deflect Reasons,’ *Philosophical Studies* 174:12 (2017), pp. 3109-3132.

<sup>5</sup> “*phi*” denotes an action.

others 'directive-reasons'.<sup>6</sup> I take the term 'directive' to stand for a broad spectrum of speech acts,<sup>7</sup> including urging, permitting, suggesting, prohibiting, requesting, requiring, demanding, advocating, commanding, insisting, and claiming.<sup>8</sup> Succinctly, directives guide or are at least intended to do so. Directives, therefore, hold themselves out as normative. That is, directives are reasons for actions or at least purport to be so. More specifically, the reason that (valid) directing to *phi* gives is the directive itself, hence the label "*directive-reason*."<sup>9</sup> For example, a friend asking to drive her to the airport gives a (directive-)reason to drive her to the airport, the reason being that 'she requested it'.

Of course, a directive can also generate non-directive-reasons to do as requested. For instance, maintaining a friendship may be a reason to grant a

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<sup>6</sup> For more detail see Herstein, 'Understanding Standing: Permission to Deflect Reasons', pp. 3115-3116.

<sup>7</sup> I expand here on John Searle's and Daniel Vanderveken's terminology, *Foundations of Illocutionary Logic* (Cambridge: Cambridge University Press, 1985), pp. 55-6.

<sup>8</sup> 'Directives' include imperatives (e.g., orders, commands) but are not limited to imperatives (e.g., requests, urgings).

<sup>9</sup> For a similar, even if not identical, idea see David Enoch, 'Authority and Robust Reason-Giving', *Philosophy and Phenomenological Research* 89 (2012), pp. 296-332.

friend's hypocritical request. Yet the normativity of standing, at least to the extent discussed here, is about directive-reasons only. For instance, the hypocrisy of my friend's request only impinges on my doing as my friend requested *because she requested it*, and not, for example, on my doing as she requested in order to maintain our friendship.

What about standing to blame? Much of the literature on moral standing has focused on standing to blame (and to condemn). As explained, this paper is about standing to give (directive) reasons. While not all, some – and in my view many – instances of (valid) blaming involve the giving of directive (and at times other types of) reasons.<sup>10</sup> And to the extent that they

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<sup>10</sup> see Herstein, 'Understanding Standing: Permission to Deflect Reasons', p. 3110-3111, 3116-3118; Recognizing my view on blaming, see Tognazzini, Neal and Coates, D. Justin, "Blame", The Stanford Encyclopedia of Philosophy (Fall 2018 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/fall2018/entries/blame/>>.

do, this paper's thesis also covers standing to blame.<sup>11</sup> One example of *non-reason giving* blaming is blaming others internally, that is without communicating the matter to anyone. Arguably, standing norms may also apply to such non-reason giving forms of blaming.<sup>12</sup> To the extent that they do, it is not the aim of this paper to figure out how so.

Notice that a *valid* directive is in fact the reason that it purports to be, that is a reason for the directive's addressee to do as directed. Naturally not all directing locutions are what I call "valid," that is not all succeed in generating the directive-reasons that they purport to give. Conditions of validity of directives are many and diverse. Here I will just assume that some directives are in fact valid.

Now that we have a sense of "directive-reasons", what do I mean by "permission to disregard"? As explained, when applied to interventions that

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<sup>11</sup> This paper joins those who have expanded the focus of the philosophy of standing beyond the case of blaming, to also include other types of speech acts, such as requests, demands, and forgiveness, and aims to give an account of standing not limited to a specific type of speech act (such as blaming). Somewhat regrettably, we have come to live in a blame-driven culture. And moral philosophy also, I feel, has perhaps become overly focused on blame, blaming, and blameworthiness.

<sup>12</sup> I have my doubts about this, although at the end the matter may just turn on a different understating of what we mean by "standing".



take the form of directives, the normativity of standing entails that where the issuer of a directive lacks the standing to issue it, the subject of that directive is permitted to disregard it. That is, she may disregard the *directive-reason* generated by the directing. By “permission to disregard” I mean that one is allowed not to take *that* reason into account in one’s practical deliberations because one is licensed not to conform to that reason. Exploring the grounds of this aspect of standing – permitting disregarding and not conforming to (valid) directive-reasons – is this paper’s primary task.

Norms of standing therefore disrupt the normativity of interventions. When such interventions take the form of directives, what is crucial to appreciate is that norms of standing may forbid directives that – but for the lack of standing – one would be at liberty to carry out and the recipient would not be permitted to disregard. Norms of standing, therefore, can make otherwise permissible interventions impermissible (the duty of nonintervention). Moreover, norms of standing provide for resisting otherwise valid directives, such that were it not for the norm of standing it may be *unreasonable* for the target of the directive to disregard it.<sup>13</sup> In fact,

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<sup>13</sup> Here “unreasonable” means: not in conformity with reason and open to criticism on grounds of reason. See e.g., Derek Parfit, *Reason and Persons* (Oxford: Oxford University Press, 1986), p. 119. Accordingly, I use “unreasonable” differently than “irrational” as the latter is not about conformity to reason (such as conformity with value and morality) but about conformity with logic and rational thinking.

forbidding valid interventions and licensing disregarding them is the cutting edge of standing norms – were standing norms applicable only to invalid interventions, standing norms would have far less normative bite, because one could fail to conform to such interventions solely on the grounds of their weightlessness; no special permission would be called for.

A further crucial feature of the normative structure of standing is that whether or not one has standing to intervene turns on certain facts about the person making the intervention and not on the validity of the intervention itself. Which is why I regard my conception of standing as akin to juridical standing. In the law, doctrines of standing provide for rejecting legal claims due to facts about the person bringing the claim, regardless of and without the court even having to entertain the legal validity of the claim itself.<sup>14</sup> Such legal doctrines may be labeled “*ad hominem* laws.”

Here is an illustrative example of the normative structure of standing manifested in a concrete case. Troubled by the scene of a young child picking on another child in the park, a bystander intervenes, ordering the child to stop (giving a directive-reason for action). Under such conditions the child seems entitled to respond by saying, “You’re not my father” and then to disregard the bystander. This is not to say that the child ought not stop

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<sup>14</sup> For a discussion and examples see Ori J Herstein, ‘A Normative Theory of the Clean Hands Defense,’ *Legal Theory* 17:3 (2011) pp. 171-208.

picking on the other child, as there is an abundance of weighty reasons for him to stop, only that the stranger's intervention need not count among those reasons. Similarly, had the child's parents blocked the bystander from directing their child, protesting "Even if he is misbehaving, *you* stay out of it! That is *our* job", it appears that they would have been permitted to do so.

Notice that neither the incredulous child nor his angered parents are claiming that ordering the child to stop wasn't, in and of itself, the appropriate thing to do. In fact, the parents agree that considering the child's behavior, *in principle* that was a fitting form of intervention; something that even the child himself does not contest. Rather, the basis for the parents' complaint is that only *they* have the requisite status to do so. That is, although the *type* of reason that the stranger gave the child was, in and of itself, befitting the circumstances, *he* was not the appropriate person to give it; *he* should have stayed out of it. The problem with the stranger's conduct therefore was not the nature or form of what he did but that it was him doing it. Performed by him, ordering the child intruded upon the parents' and the child's protected domains, thereby triggering the normativity of standing – licensing the parents and child to resist and disregard the stranger's intervention.

Now, the normativity of what I call "standing" may seem puzzling. How can reason license disregarding (and not conforming to) genuine (directive-)reasons? For example, how is it possible that the command of the man in the park or a friend's hypocritical request are genuine directive-reasons to do

as directed, yet still they are ignorable? At least on its face such a license might seem incoherent.

Casting the normativity of standing in a rational light, I have elsewhere defended a view of the normativity of standing in terms of an 'exclusionary permission', which is the picture I will assume here.<sup>15</sup> Briefly, norms of exclusion are second-order norms. First-order norms give reasons to do (or deliberate, or believe, or feel). Second-order norms give second-order reasons, which are reasons that are about *other* reasons. Exclusionary permissions are a type of second-order norm. They do not give or directly compete with first-order reasons but rather regulate the exclusion of some such first-order reasons from relevancy to one's practical deliberations, *regardless* of the normative force of those reasons. Namely, exclusionary permissions permit excluding (or discounting) certain reasons and not conforming to them.<sup>16</sup> Importantly, exclusionary norms leave the force and validity of first-order reasons unaltered – they do not invalidate them but rather permit not conforming to them.

Notice that casting standing's permission to disregard in a rational light – as a type of second-order reason – may establish that standing is a

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<sup>15</sup> 'Understanding Standing: Permission to Deflect Reasons', pp. 3129-3130.

<sup>16</sup> On 'second-order reasons', 'second-order norms', and 'exclusionary permissions' see Joseph Raz, *Practical Reasons and Norms* (Oxford: Oxford University Press, [1975] 1990), pp. 39-40, 73-84, 90-7.

possibility in logical space, yet it does not, in and of itself, establish that this normative structure that I call “standing” is ever justified. Thus, the question is are there any actual cases in which one *may* – within reason – disregard a valid directive on account of certain *ad hominem* facts about the person making the directive? As argued in Section 4, I believe there are many such cases.

But first, let’s summarize our discussion of the normative structure of standing’s license to disregard. One may issue a valid directive – that is succeed in giving a directive-reason – and still lack standing to do so. In these cases the directive, such as a demand or request, really is a (directive-)reason for the target of the directive to do as directed. Yet because such a directive was issued without the requisite standing, the target of that directive is licensed to discount and even exclude it entirely, its validity and weight notwithstanding.

Norms of standing, therefore, entail a distinction between holding the normative *power* (such as the authority) to issue a valid directive, and the *standing* to exercise such power. Accordingly, it is possible to lack the standing to exercise the normative power that one in fact possesses. Standing is a normative category distinct and independent from the category of normative power, setting limitations on the exercise of such power and

opening up avenues for resisting it.<sup>17</sup>

### 3 STANDING PRACTICES

Now that we have a sense in the abstract of the normative structure of standing, I turn to detailing the many manifestations of this normative structure in actual everyday practices. After which, the paper turns to what is its primary focus: the *pro tanto* justification of everyday practices manifesting the form of standing.

#### 3.1 Three types of standing practices

Practices of standing include at least three broad categories of cases that tend to exhibit the normative structure of standing. I label them “*tu quoque*” (‘you too’), “*mind your own business*,” and “*know thy place*,” collectively referring to them as “*TMK*.” These are general categories allowing for many variations, yet they all turn on facts about intervening parties, impose (putative) duties of nonintervention, as well as provide those intervened with – in breach of those duties – a (putative) license to disregard such

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<sup>17</sup> For related ideas see Nicolas Cornell, ‘The Possibility of Preemptive Forgiving,’ *Philosophical Review* 126 (2017), 241-72, 264-67. See also Herstein, ‘Understanding Standing: Permission to Deflect Reasons’, pp. 3119-3125.

interventions.<sup>18</sup> Accordingly, these practices constitute *social* norms of standing.

In cases of *mind your own business* the type of *ad hominem* facts upon which the normativity of standing turns is lacking a stake in or being an outsider to the underlying matter in which one intervenes. Colloquially, cases of *mind your own business* involve meddling and “sticking one’s nose” into the affairs of others. Common and familiar responses to interventions performed under conditions of *mind your own business* include “this has nothing to do with you!” and “you stay out of it!” For example, no matter how sound their prescriptions, strangers should normally not intervene with a couple bickering on the street; but if they do intervene, the couple is normally entitled to disregard the strangers’ prescriptions no matter the merit of those prescriptions, simply because it is not the strangers’ business.<sup>19</sup>

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<sup>18</sup> I use the qualifier “putative” to emphasis that thus far the discussion has revolved around *social* norms, the moral justification of which is the aim of Section 4.

<sup>19</sup> For discussions and brief examples of different instances of standing along the lines of *mind your own business* see Roger Wertheimer, ‘Constraining Condemning’, *Ethics* 108 (1998), pp. 489–501; Angela M. Smith, ‘On Being Responsible and Holding Responsible’, *The Journal of Ethics* 11 (2007), pp. 465–84; Antony Duff, ‘Moral Standing and the Legitimacy of the Criminal

The second category of cases giving rise to the normativity of standing turns on circumstances of *tu quoque*, which involve interventions delivered under a cloud of normative inconsistency or hypocrisy. '*Tu quoque*' refers here to several subcategories of cases. One such subcategory involves a person guilty of past wrongdoing similar to the wrongdoing for which he is now critically intervening with others. These are cases of 'the pot calling the kettle black'. Another scenario involves a double standard, wherein one is barred from furthering or applying a standard or position that is inconsistent with the standard or position one has applied to other similar cases – especially when favoring oneself or those closer to one. The case of the selfish friend presented at the outset is one such example. Another familiar type of *tu quoque* involves perpetrators of wrongs later critically intervening in their victims' wrongdoings. For instance, at times Germany is reluctant to criticize certain injustices perpetrated by Israel, even when similarly Israel-friendly countries demonstrate no such reticence. An explanation that both Germans and Israelis often provide in favor of this reserve is rooted in the Holocaust – given its past crimes against the Jews, Germany lacks standing to

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Trial', *Ratio (new series)* 23 (2010), pp. 123-40; Linda Radzik, 'On Minding Your Own Business: *Differentiating Accountability Relations Within the Moral Community*', *Social Theory and Practice* 37:4 (2012), pp. 574-98; Linda Radzik, 'On the Virtue of Minding Your Own Business', *Journal of Value Inquiry* 46 (2012), pp. 173-82.



critically intervene in at least some of Israel's wrongdoings.<sup>20</sup> And there are still other types of *tu quoque* cases, such as criticizing others for their involvement in a wrong that one is also complicit in or is otherwise responsible for.<sup>21</sup> A biblical response to interventions performed under conditions of *tu quoque* is "why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?"<sup>22</sup> A more contemporary formulation is "you of all people can't say/do that." In

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<sup>20</sup> To be clear, I do *not* claim that there is symmetry between the Holocaust and any wrongdoing attributable to the State of Israel.

<sup>21</sup> For a recent analysis of what I call "*tu quoque*" cases see Patrick Todd, 'A Unified Account of the Moral Standing to Blame', *Nous* (forthcoming) doi: 10.1111/nous.12215. For instances of *tu quoque* (mainly in the context of blame and condemnation) see Gerald A. Cohen, 'Casting the First Stone: Who Can, and Who Can't, Condemn the Terrorists?' *Royal Institute of Philosophy Supplement* 81 (2006), pp. 113–36; Duff, 'Moral Standing and the Legitimacy of the Criminal Law'; Patrick Todd, 'Manipulation and Moral Standing: An Argument for Incompatibilism', *Philosopher's Imprint* 12 (2012), 6-17; Marilyn Friedman, 'How to Blame People Responsibly', *Journal of Value Inquiry* 47 (2013), pp. 271-84; Kyle G. Fritz and Daniel Miller, 'Hypocrisy and the Standing to Blame', *Pacific Philosophical Quarterly* (2015) doi: 10.1111/papq.12104; Cristina Roadevin, 'Hypocritical Blame, Fairness, and Standing', *Metaphilosophy* 49:1-2 (2018), 137-52.

<sup>22</sup> Matthew 7:3, King James Version.

all these cases, interventions are both frowned upon and considered ignorable.

The third category of social practices exhibiting the normativity of standing is *know thy place*, on which I elaborate more below (Section 4.1.3). Unlike cases of *mind your own business*, which turn on a stake or connection to the matter one is intervening with, standing of the *know thy place* variant turns on possessing a certain status. Such status may involve personal achievements or excellence, relationships, affiliations, social identity, personal history or some special role or position. The case provided above of the man in the park is one such example – guardianship (whether or not one has a personal stake in the matter) is normally a prerequisite for legitimately ordering a child around. A typical response to interventions performed under conditions in which one does not ‘know one’s place’ is: “Who do you think you are!” Here too such interventions are typically deemed both forbidden and ignorable.

Notice that although central, *TMK* practices do not exhaust the realm of standing practices. For example, a family member asking for help with his alcohol addiction gives directive-reason to do so. Yet after the third or fourth time where one goes out of one’s way to help a kin per his requests only to be repeatedly disappointed, it may become (at least socially) permissible to disregard such new requests, their normative weight notwithstanding. One could, moreover, imagine how otherwise morally tainted interventions, for example arrogant, mean, and petty interventions, could at times also trigger

the normativity of standing.<sup>23</sup> I will, nevertheless, limit myself to the already rich contexts of *TMK* practices.

Typically *TMK* practices at least appear to exhibit the normative structure of “standing”: turning on certain *ad hominem* circumstances – meddling, hypocrisy, moral inconsistency, lack of status – under which one is considered to be under a *duty* not to intervene in the affairs of certain others and, if one nevertheless breaches that duty, the target of that wrongful intervention is considered *licensed* to simply brush it off without regard or deliberation of its merits.<sup>24</sup>

That our practices assume the wrongness of interventions performed under conditions of *TMK* is reflected in our everyday reactions when subjected to such interventions. Irritation, indignation, anger, and at times even rage are often considered appropriate emotions to have in the face of, for example, meddling or hypocritical blaming. Furthermore, it is often considered appropriate to manifest such emotions in locutions expressing a

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<sup>23</sup> In contrast perhaps to the views of Macalester Bell. See Macalester Bell, ‘The Standing to Blame: A Critique’, in D.J. Coates and N.A. Tognazzini (eds.), *Blame: Its Nature and Norms*. (Oxford: Oxford University Press, 2012), pp. 263-81, 275.

<sup>24</sup> I write “...considered to be under a *duty*...” and “...considered licensed to resist...” to emphasis that I am now explicating social practices. Whether or not those practices are justified is the focus of Section 4.

grievance and a measure of rancor, such as “mind your own business!”, “stay out of it!” and “who do you think you are!”

The wrongness of intervening under condition of *TMK* is also reflected in how such conditions regularly function as reasons not to intervene altogether, or to first ask for permission, or to apologize for intervening. For instance, one says things such as “it’s really not my place to interject”; “I know it’s none of my business, but...”; “I apologize for speaking out of place, yet...”; or “I will understand if you completely disregard what I have to say...” These are all qualifications designed to preempt, mitigate, or at least acknowledge the possible wrongness of one’s intervention.

To be clear, I am not committed to the view that *all TMK* practices are standing practices. Social practices are complex, diverse, and not always consistent. All I claim is that many such practices exhibit the structure of standing. And it is those instances which I wish to illuminate and defend.

### **3.2 Exclusion v. Invalidation**

There is a competing account of *TMK* practices, an account which is assumed (less often argued for) in much of the literature on *TMK*. This account, which I dub the “invalidation model”, holds that when issued under conditions of *TMK*, otherwise valid directives are invalidated, losing their normative force as directives.<sup>25</sup> The standing model, in contrast, involves a

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<sup>25</sup> None of these authors explicitly addresses the matter, yet their accounts of (mostly) hypocritical blaming and condemning assumes the invalidation view.

permission to disregard directives regardless of their validity. The invalidation model, therefore, views *TMK* not as standing norms but as authority-defeating norms or, more generally, as norms that void, or diminish, or are a condition for holding normative power. Accordingly, under this view the justification of the practice of disregarding directives issued under conditions of *TMK* is simply a function of the putative normative weightlessness of those directives. For example, even if normally the request of a friend is reason to do as the friend requests, we may disregard a friend's *hypocritical* request because – given the hypocrisy – the request is invalidated and thereby fails to give any (directive-)reason in favor of granting it.

For reasons developed in further detail elsewhere, the invalidation model does not fit (at least many of) *TMK* practices.<sup>26</sup> Most importantly, this is due to the fact that under practices of *TMK* disregarding directives issued under conditions of *TMK* is a matter of choice. It is imbedded in (at least

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See Thomas Scanlon, *What We Owe to Each Other*, (Cambridge, Mass.: Harvard University Press, 1988), pp. 175-76; Saul Smilansky, 'On Practicing What We Preach', *American Philosophical Quarterly* 31 (1994), pp. 73-9; Antony Duff, *Punishment, Communication, and Community* (Oxford: Oxford University Press, 2001), pp. 185–8; Cohen, 'Casting the First Stone'; Friedman, 'How To Blame People Responsibly'.

<sup>26</sup> See Herstein, 'Understanding Standing: Permission to Deflect Reasons', pp. 3119-3125.

many of) our practices that if a directive is issued under conditions of *TMK*, its addressee has the option of taking that directive into account in her practical deliberation – including doing as the directive directs (also) *because of or on the grounds of the directive*. Moreover, given the conditions of *TMK*, the addressee at times may decide not to disregard such a directive altogether, but rather to *discount some* (not all) of its normative weight.

For example, our practices assume that there is nothing unreasonable in driving a hypocritical friend to the airport where one's reason for doing so is that one's friend asked to be driven to the airport. Relatedly, all else equal, it is not considered contrary to reason nor unreasonable to give less weight to such a request – that is, giving it *some* weight – than the weight of a similar request made by a more cooperative friend. Or think of the example of the man in the park. Could the child not reasonably consider and even act on the man's directive? I submit that we would typically assume that were the child to stop picking on the other child *because the man told him to*, we would not find the child's actions or process of practical deliberation unreasonable.

Relatedly, we sometimes experience a measure of resentment for having been put in the uncomfortable position of having to decide whether or not to disregard an intervention that we were subjected to under conditions of *TMK*; as if there is a normative price to disregarding such interventions. Such emotions further indicate that merely holding a permission to disregard an intervention does not entirely expunge its

normative force.

Given that it is not considered unreasonable to deliberate on and even to act on directive-reasons issued under conditions of *TMK*, it follows that our practices assume that such directives can still have normative force *as directives*. To provide guidance as a directive, a directive must have a measure of normative weight for one to take guidance from. This leads to the conclusion that the *ad hominem* conditions upon which social norms of *TMK* supervene are *not* taken to negate the validity of those directives. Accordingly, adopting the invalidation model would entail that the familiar practices of deliberating and acting on directives issued under conditions of *TMK* are unreasonable, which is a highly revisionist conclusion, given the pervasiveness of the phenomena. Expounding *TMK* practices in terms of standing offers an account that saves the phenomena while giving it a rational explication in terms of an exclusionary permission.

At this juncture, in an attempt to shield the invalidation model, the interlocutor may fall back on the following type of defense: while it may ring true for the boy in the example to think that he is doing what the man told him to do *because the man told him to do it*, in fact he is acting for other reasons, such as fear of the man or for having realized the wrongness of his behavior thanks to the man's directive.

A full response is beyond the scope of this article. So, briefly, flooding *TMK* examples with further types of reasons demonstrates that life is complex and reasons are often plentiful. It does not, however, disprove the

presence of a directive-reason in such scenarios. Furthermore, why not trust the very intuitive notion presented in the examples above that when acting on meddling or hypocritical directives to *phi* we really do what we often naturally claim to do – we *phi* (also) *because of the directive*? Given our practices, the invalidation way of thinking strikes me as less intuitive and as much more theory-laden than these everyday intuitions captured in the examples: I am not unreasonable if I drive my hypocritical friend to the airport on the grounds that *she asked me to*. It is just how practices of *TMK* often seem to work.<sup>27</sup>

#### 4 JUSTIFYING STANDING PRACTICES

But do the different *ad hominem* circumstances found in *TMK* practices really give rise to or, at the very least, count in favor of the normativity of standing? That is, accepting that our everyday practices of *TMK* exhibit the normativity of standing as *social* norms, the question is are these social norms justified? I argue that they are, at least sometimes. In a nutshell, the argument progresses as follows: exploring the values that practices of *TMK* reflect and protect; explaining how these values are interests of the individuals interfered with under conditions of *TMK*; discussing how such interests can

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<sup>27</sup> For more fanciful examples pinpointing the presence of directive-reasons in cases of *TMK* as well as for further argument in favor of the exclusionary model of *TMK* practices see Herstein, ‘Understanding Standing: Permission to Deflect Reasons’, pp. 3119-3125, 3129-3130.



ground *standing's duties* of nonintervention and how breaching such duties wrongs those intervened with; and finally, accounting for how the valuable interests that underlie these duties of nonintervention can give rise to *standing's permissions* to exclude and not to conform with interventions made in breach of those duties.

A word on methodology. Justifying social norms is a complex affair. The social and other kinds of morally significant implications of standing norms are not only numerous but they also greatly vary with context. Which is why offering all-things-considered justifications of the many instances of *TMK* practices goes beyond the parameters of this paper. What I offer here is more modest, which is a blueprint for arriving at *pro tanto* justifications for such practices, focusing on the bilateral normative relations inherent to standing practices between the intervener and the party intervened with.

## **4.1 Standing practices and value**

### **4.1.1 *Mind your own business***

Let's begin with practices of *mind your own business*, which function to protect values dependent on keeping certain spheres sheltered from the intervention of outsiders. Values dependent on such sheltering are plentiful. Although very different from each other, what these values have in common is a dependency on spheres free from outsiders' intrusion. Accordingly, such values count against certain interventions in people's affairs and may even ground standing norms blocking such interventions. Here is a cursory account of some such values.

Privacy is an obvious example. At times we just need to be left alone, be it only for fostering a sense of self. Other times a measure of seclusion, insulation, or even just the reserve of others is a condition for engaging in valuable activities.<sup>28</sup> For instance, close, intimate, or otherwise meaningful relationships and associations often require a measure of isolation or distance from the intervention and attention of those who are not part of the relationship or association.<sup>29</sup> Examples range from relationships of physical and familial intimacy to religious and psychological counseling. Personal flourishing in different contexts and types of locations often also depends on forms of privacy, be it at home – calling for a measure of seclusion – or out in public – calling for anonymity and reserve from others.<sup>30</sup>

There are of course further values counting in favor of standing norms of the *mind your own business* variety. These include independence and autonomy, both of which rely on a measure of individual liberty from

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<sup>28</sup> By “reserve” I mean behaving as if we are unaware of another or of their actions even though we are aware, and they know that we are, and we know that they know that we are. And still, such reserve can provide a semblance of a valuable sense of privacy.

<sup>29</sup> For an exploration of the various values of privacy along such lines see Ferdinand David Schoeman, *Privacy and Social Freedom* (Cambridge: Cambridge University Press, 1992), pp. 151-91.

<sup>30</sup> On different states or experiences of privacy see A.F. Westin, *Privacy and Freedom* (New York: Atheneum, 1967).

intervention, including even a measure of leeway to err in the face of valid interventions.<sup>31</sup> Personal development, including moral development, also requires a measure of liberty to make one's own mistakes.<sup>32</sup>

#### 4.1.2 *Tu quoque*

Broadly speaking, *tu quoque* cases involve not practicing what one preaches to, expects of, or imposes on others. It is, in other words, about a form of hypocrisy or moral inconsistency. Here I follow the literature in focusing on hypocrisy.

The disvalue of hypocritical intervention is diverse, as are the many different types of hypocritical intervention. For instance, hypocritical intervention might involve low virtue and erode trust in the sincerity of moral claims.<sup>33</sup> Yet given that we are searching for the grounds of *standing* in cases

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<sup>31</sup> For arguments on how personal autonomy and related values can even ground rights against intervention with wrongdoing see Jeremy Waldron, 'A Right To Do Wrong', *Ethics* 92 (1992), pp. 21-39; Andrew I. Cohen, 'Virtues, Opportunities, and the Right To Do Wrong', *Journal of Social Philosophy* 28 (1997), pp. 43-55; Ori J Herstein, 'Defending the Right To Do Wrong', *Law and Philosophy* 31:3 (2012), pp. 343-365.

<sup>32</sup> Radzik, 'On Minding Your Own Business', p. 593.

<sup>33</sup> For a discussion of the ills of hypocrisy along such lines see Christine McKinnon, 'Hypocrisy, With a Note on Integrity', *American Philosophical Quarterly* 28 (1991), pp. 321-30.

of hypocrisy, we are looking not only for an account of the disvalue of hypocrisy *simpliciter* but for how the disvalue of hypocritical intervention is a disvalue to those subjected to such treatment. Remember, practices of *tu quoque* shield people from certain hypocritical (even if otherwise valid) interventions. The question therefore is what, if anything, about hypocritical interventions counts in favor of such protection? Now to be treated hypocritically seems *prima facie* deleterious. Nevertheless, explaining why – at least in the sense of how hypocrisy can ground the denial of standing – has proven challenging.

The focus of most of the literature has been on the hypocrite's standing to blame, condemn, and hold others accountable. And although it has its critics,<sup>34</sup> currently the leading explanation of the wrongness of hypocritical blame, condemnation and holding to account is that it violates the principle of the equal moral status and worth of persons.<sup>35</sup> A somewhat related view is that such hypocrisy is a form of unjustified evaluative

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<sup>34</sup> See e.g., Todd, 'A Unified Account of the Moral Standing to Blame'.

<sup>35</sup> R. Jay Wallace, 'Hypocrisy, Moral Address, and the Equal Standing of Persons', *Philosophy and Public Affairs* 38 (2010), pp. 307-41; Fritz and Miller, 'Hypocrisy and the Standing to Blame'.

discrimination.<sup>36</sup> Yet another relevant take on the wrongness of hypocrisy focuses on the hypocrite's failure of reciprocity in moral self-scrutiny.<sup>37</sup>

Extracting from these different versions, here is how I would craft the essence of the egalitarian account of the wrong of hypocrisy. To help oneself (or those that one favors) to liberties under the same circumstances in which one is unwilling – purportedly as a matter of moral principle – to offer the same treatment to others is a form of disrespect. Such hypocrisy involves treating and morally judging differently what are – on one's own (purported) moral lights – morally similar cases. Accordingly, the hypocrite exempts herself from what she believes or, at least, from what she holds herself out to believe, is a *moral* norm. And she does so for what are irrelevant reasons under that (purported) moral norm.

Such conduct amounts to treating others as one's moral inferiors, as it involves exempting oneself from moral norms and moral judgment based on what are, by one's own (purported) lights, irrelevant grounds – such as exempting oneself from a moral norm for no other reason than it is oneself that one is exempting. This kind of lax treatment towards oneself (and those one favors) coupled with stricter treatment of others amounts to regarding oneself – and not others – as 'above the moral law' or, at the very least, as worth more than others, thereby wronging them by regarding and treating

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<sup>36</sup> Friedman, 'How To Blame People Responsibly'.

<sup>37</sup> Roadevin, 'Hypocritical Blame, Fairness, and Standing'.

them as one's moral inferiors. Notice that it does not seem to matter whether or not the hypocrite believes in what she is preaching. It is enough that she behaves as if she does, thereby *treating* the targets of her preaching as her moral inferiors.

#### 4.1.3 *Know thy place*

What values, if any, animate practices of *know thy place*? There are familiar circumstances in which what are otherwise justified and valid interventions are, nevertheless, made wrongful and are permissibly resisted on the grounds that those intervening lack a certain status *vis-à-vis* the target of their intervention. For instance, in many contexts certain reproach is only permissibly delivered among members of the same ethnic or national group or among friends or family members, not by outsiders. In such cases, unlike cases of *mind your own business*, standing does not turn (at least not only) on personal involvement nor on a personal stake in the *matter*, but on some type of kinship with or proximity to the *subject* of the intervention.

Practices of *know thy place* serve to protect values dependent on some people holding an *exclusive* privilege to intervene, for instance, when such *exclusivity* is crucial and even constitutive of certain valuable personal and social ties. Possessing exclusive privilege to intervene in the affairs of certain others is often an important feature of valuable affiliations, bonds of fraternity, relationships, friendship, and love. Depending on the context, one's spouse, parents, siblings, close friends, teachers, mentors, and even compatriots are (as a matter of practice) exclusively at liberty to demand,

ask, criticize, and even physically intervene with some of one's choices simply because they are one's spouse, parents, siblings, close friends, teachers, mentors, and compatriots. And without such an *exclusive* privilege to intervene, something in these valuable relations is diminished, risking even dissolving the relation itself. For example, that a close friend may intervene *where all others may not* is part and parcel of close friendship. Accordingly, protecting this exclusivity serves to protect the valuable relationship.

Valuable hierarchical relationships often also require that some parties to a relationship hold an exclusive privilege to intervene in the affairs of other parties to the relationship, such as in the case of parents and their children. Here too, the weakening of exclusivity can bring about the weakening and even dissolution of the essence of these types of valuable relationships, providing reason in favor of privileging some to intervene while denying that liberty to most others, even when, in and of themselves, the latter's interventions are valid. Such was the case in the example given above of the bystander and the child in the park.

Yet other cases of *know thy place* protect exclusivity in intervention as an expression of respect or honor or other special type of regard. Standing to intervene can, for instance, function as a form of respect or honoring of personal achievement or personal history. For example, there are certain interventions into our affairs that we would reject offhand without any substantive deliberation if delivered by anyone other than, for example, mentors, elders or certain types of personal or cultural heroes. And this kind

of exclusivity in the liberty to intervene serves as a form of respect, devotion, fidelity and commitment to certain others simply by virtue of who they are.

#### **4.2 From values to interests**

The various values that *TMK* practices reflect and protect are not free-floating, at least not entirely. Values such as autonomy, privacy, equal respect, and meaningful relationships invariably involve individuals and are of value for those individuals. Accordingly, *TMK* practices appear structured to protect certain valuable *personal interests*, which are primarily the interests of those intervened with under conditions of *TMK*.

#### **4.3 From interests to duties of nonintervention**

Having canvassed some of the valuable personal interests at stake in our social practices of standing, what is left to explore is whether those interests can indeed give rise to standing's two normative prongs: 1) the duty of nonintervention and, if breached, 2) the license to disregard interventions issued in violation of that duty. I will begin with the former. To be clear, the richness of *TMK* practices, the diversity of the values that they protect, and the numerous factual nuances of every instance of every type of standing practice, preclude my offering anything nearing a detailed analysis of their respective justifications. As already explained, here I offer a blueprint for how justifications of specific standing practices would go, offering at most *pro tanto* justifications.

Values underpin reasons and, if sufficiently weighty or otherwise



conclusive, reasons may count in favor of and even justify duties to respect such values.<sup>38</sup> When at stake, the aforementioned values involved in standing practices – valuable relationships, privacy, autonomy, reciprocity, equal moral worth and respect, independence etc. – are certainly commonly considered weighty enough to ground duties of nonintervention. At least within the liberal tradition, these values are the stuff that moral duties are made of. Accordingly, in the absence of defeating reasons, the valuable interests that practices of *TMK* serve to protect give rise to duties of nonintervention, which are duties that protect those interests.

Therefore, grounded in genuine, familiar, and weighty values, the duties of nonintervention assumed in our social practices of standing appear *pro tanto* justified. Moreover, given their grounding in interests, such duties of nonintervention are directed-duties – that is duties to the party whose interests they protect.<sup>39</sup>

#### **4.4 From duties of nonintervention to wrongdoing**

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<sup>38</sup> For a discussion on how interests may ground duties towards interest holders (as well as corresponding rights) see e.g., Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), pp. 165-92; Mathew Kramer, 'Some Doubts about Alternatives to the Interest Theory of Rights', *Ethics* 123 (2013), pp. 245-63

<sup>39</sup> On directed duties see Simon Cabulea May, 'Directed Duties', *Philosophy Compass* 10/8 (2015), pp. 523–32, 10.1111/phc3.12239.

Breaches of duties are wrongs. Given that (when justified) *TMK* practices denote duties of nonintervention, it follows that intervening under such conditions is wrongful. Moreover, to intervene without standing to do so is not a free-floating wrong. Given the directed nature of these duties of nonintervention, breaching them is a wrong to the party intervened with. That is, to intervene without standing is to wrong the party whose valuable interests gave rise to the duty not to intervene in the first place. Accordingly, breaching standing's duties of nonintervention is not only wrongful *simpliciter*, it is also a wrong to those intervened with. Which, as explored above (Section 3.1), is reflected in typical everyday reactions to interventions performed under conditions of *TMK*.

#### **4.5 From wronging to standing's permission to exclude**

Moving on to standing's second prong, what grounds standing's permission to disregard directives? Remember, standing norms permit disregarding what are otherwise valid directives, such that when faced with a directive issued without standing, one may disregard it even if – were it not for the issue of standing – disregarding would be impermissible. As explained, standing involves second-order norms of exclusionary permission. The question we now turn to is what, if anything, justifies such permissions in the context of *TMK*?

On the face of things, the answer may seem straightforward: it is the *wrongness* of intervening under conditions such as *TMK* that justifies the license to disregard such interventions. Yet matters are more complicated.

Depending on the circumstances, morality responds to wrongdoing in different ways, such as punitively, correctively, and restoratively. Justifying practices of standing depends, therefore, on more than just demonstrating that such practices involve a 'response' to a wrong, but also that that specific form of response – a permission to disregard and to not conform to the wrongful yet valid intervention – is justified.

#### 4.5.1 *The continuity of values*

The answer begins with noticing how the same value can give rise to different duties.<sup>40</sup> Once breached, a duty cannot be unbreached and, therefore, remains forever unsatisfied. For example, once I breach my duty not to steal my neighbor's morning newspaper I cannot go back in time and 'unsteal' it. Even returning the newspaper does not change the fact that I stole in violation of my duty. Nothing can. But what about those underlying values that gave rise to the breached duty? Clearly, they continue projecting normative force and *they*, at least to a degree, can still be respected in the

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<sup>40</sup> I take my inspiration from John Gardner, 'What is Tort Law For? Part 1', *Law and Philosophy* 30 (2011), pp. 1–50; Arthur Ripstein, *Private Wrongs* (Cambridge: Harvard University Press, 2016), pp. 233–62; and, Joseph Raz, 'Personal Practical Conflicts', in P. Baumann and M. Betzler (eds.), *Practical Conflicts: New Philosophical Essays* (Cambridge: Cambridge University Press, 2004), pp. 172–92, 189–93.

post-breach world. For example, assume that my duty not to steal my neighbor's newspaper is predicated on her interests in feeling secure in her effects and in staying informed on current affairs. These valuable interests remain in force even after the newspaper is stolen. Accordingly, in the post-breach world, given that the duty not to steal the newspaper has been breached, the values that gave rise to that duty may give rise to other duties, such as a duty to return the newspaper as soon as possible and to apologize for taking it.

In terms of respecting the values underlying the original duty of nonintervention, these new duties of restitution and apology are second best, as they promise only partial conformity with reason. The better path to respect those values was to comply with the original but now breached duty. It is only once this primary path is blocked that the secondary path opens as the best remaining option to respect the values underlying the initial primary obligation not to steal. Were the two duties – the duty not to steal and, if stolen, the duty to apologize and return the item – just as good *vis-à-vis* the underlying values that ground them, they would have arisen as normative alternatives in the first place. But of course, they are not alternatives – not stealing is normatively better than stealing plus returning/compensating.

This logic of continuity between the grounds of primary and secondary duties nicely explains the grounds for standing's license to disregard. As explained above, circumstances of *TMK* involve valuable interests that are dependent on a measure of nonintervention. Those values give rise to

standing's duties of nonintervention. When those duties are breached, they cannot be unbreached – the wrongful intervention has already occurred. Yet, the values that gave rise to those duties not to intervene persist in projecting normative force – people's autonomy, privacy, equal moral status, and valuable relationships still matter; which is where the license to disregard comes in – upon its breach, the same values that grounded the duty of nonintervention ground a permission to disregard and not conform to interventions performed in breach of that duty.

But why a permission to disregard? Why not, for instance, compensation or punishment? Why, in other words, is the permission to disregard the second-best to nonintervention in the first place, as opposed to some other remedial norm? My explanation has two stages. First, the values underlying the duty of nonintervention are best served by swatting away such interventions. Second, the best way to swat away such an intervention is to permit its exclusion.

Here is a legal analogy. The law of nuisance often deals with *ongoing* violations of plaintiffs' rights to the reasonable use and enjoyment of their land. Typical cases involve, for example, substantial ongoing noise or pollution emanating from a neighboring factory. Given that such wrongs are ongoing, courts face the dilemma of which remedy to grant the plaintiff. Should the court issue an injunction, ordering the defendant to cease his wrongful activities? Or, alternatively, should the court allow the defendant's activity to go on, so long as he continues paying damages for the ongoing

nuisance? In most jurisdictions, the default remedy is injunctive. And it is easy to see why – the right that the tort of nuisance is designed to protect (the reasonable use and enjoyment of one’s land) is better served by an injunction than by damages. To grant damages in lieu of an injunction, courts typically require demonstrating certain exceptional circumstances.<sup>41</sup>

Similarly, a permission to exclude an intervention would better serve the values underlying the duty of nonintervention than would, for example, some form of compensation or punishment. The best way to confront an *ongoing* infringement of privacy, autonomy, equal respect, or valuable relationship is to swat it away rather than to permit it to go on and compensate or punish for it.

Given this, what is the best way to swat interventions that take the form of directives? We are dealing with a case of an ongoing wrong in the form of a wrongfully issued reason for action. Once the wrongful (yet valid) directive-reason is issued, it impinges and continues to impinge on its target’s valuable interests. For example, once my hypocritical friend gives me a reason to drive her to the airport by asking me to do so, that reason continues to impinge on my status as an equal, at least until the departure of her flight. A permission to exclude protects one from such *ongoing* intrusion by permitting one to effectively swat it away, that is, not to comply with it or even deliberate on it. The law of trespass to chattel offers a helpful analogy.

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<sup>41</sup> See e.g., *Watson v Croft Promo-Sport Ltd* [2008] EWHC 759 (QB).

If one attempts to interfere with my possession of my personal property, I am permitted, as a form of self-help, to use reasonable force (the use of which would be otherwise impermissible) to protect my possession.<sup>42</sup> Now, as explained, directives are normative interventions, making it impossible to swat them away *physically*. Nevertheless, what one can do is disregard them. Unlike the remedy of a permission to disregard, which is a permission to a kind of self-help, alternative remedies, such as punishing the wrongdoer or pressuring him to rescind the directive or relying on institutional or some other third-party assistance, are mostly far less likely to succeed in protecting the victim's interests than simply disregarding the wrongful directives.

The logic of continuity in the values grounding a duty and the remedy for breaches of that duty also flesh out the nature of the relation between standing's two normative prongs: the duty of nonintervention and the permission to disregard interventions. An important implication of such continuity is that breach of duty involves a normative remainder, even upon remedying the breach.<sup>43</sup> Given that compliance with duty is normatively superior – *vis-à-vis* the grounding underlying values – to any form of partial

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<sup>42</sup> Restatement (Second) of Torts § 218 cmt. e

<sup>43</sup> For ideas along these lines see Judith Jarvis Thompson, *The Realm of Rights* (Cambridge: Harvard University Press, 1990); Raz, 'Personal Practical Conflicts', pp. 189-93; Gardner, 'What is Tort Law For? Part 1', pp. 28-37; John Gardner, *From Personal Life to Private Law* (Oxford: Oxford University Press, 2018), pp. 125-60.

compliance with the reasons arising out of those values, breach-plus-remedy always entails a normative deficit *vis-à-vis* those values; which fleshes out the relation between standing's duty of nonintervention and standing's permission to disregard interventions: the latter is a second-best remedy of breaches of the former. Thus, the fact that one may disregard certain interventions does not entail that such interventions are not wrongful. We can detect such normative remainders in our behavior. As explored above, common and seemingly appropriate responses to interventions issued under conditions of *TMK* involve anger, annoyance, and indignation, reactions that persist *notwithstanding* the permission to exclude.

#### *4.5.2 The cutting edge of standing: not acting on the balance of reasons*

We are not yet out of the woods. As explained, standing's license to exclude is a license to exclude interventions that, in and of themselves, possibly have merit and normative force. Moreover, the cutting edge of standing practices is the permission to disregard even conclusive reasons or reasons that tip the balance of reasons. Recall, standing's permission to disregard a directive entails that one may not conform to that directive, even if obligating. Justifying such a normative structure is not a trivial matter. After all, why would reason giveth with one hand (a normative power to give reasons) what it taketh away with the other (a license to disregard those reasons)? And why would reason permit acting against the balance of reasons?

In cases of directives issued without standing we are basically dealing



with the following scenario: *X* (validly) directs *Y* to *phi* thereby imposing a new (directive-)reason on *Y* to *phi*. In so doing, *X* normatively intervenes with *Y*, giving *Y* a reason to *phi* that did not exist prior to *X*'s directive. Such normative interventions change the normative landscape. They rearrange, if you will, the web of reasons in relation to which *Y* must negotiate his actions and choices, respond to, and is normatively assessable and responsible for.

Now, at times such interventions may not amount to much. They may fall short of significantly influencing the complex web of reasons that apply and make demands on one, and they need not necessarily tip the balance of reasons in favor of a specific action or directly obligate one to conform with them.

Yet, the cutting edge of norms of standing is in those cases where interventions do intrude on one's liberty – impacting and altering what one ought to do. When this is the case, the basic scenario is of *X* obligating *Y* to act according to *X*'s wishes on the grounds that *X* told (be it asked, commanded etc.) him to do so. In such cases, although no physical force or pressure is brought to bear, *X* imposes his will on *Y* through the giving of reasons.

Why does such a scenario give rise to a license to exclude and not to conform to those obligating interventions? First, consider the person who is the target of the intervention. Under these conditions, to wrongfully direct others limits their liberty and imposes one's will on them *via wrongdoing them*. To direct without standing is, if you will, a form of 'normative coercion'. To

then hold one bound to those interventions – valid and obligating as they may be – is repugnant. Releasing one from such wrongful intervention seems the best available way of avoiding adding insult to injury. Accordingly, complying with the balance of reasons under such conditions ought to be a matter of choice, not of normative coercion.

Second, to wrongfully impose one's will on others runs afoul of the somewhat nebulous yet (presumably) practically universally accepted principle that 'no one may profit from his own wrongdoing'. A principle felt, for example, in its widespread influence in law.<sup>44</sup> Plainly put, at least sometimes we balk at the prospect of people wronging others and then

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<sup>44</sup> The legal principle of *ex turpi causa non oritur actio*, that is, "no cause of action can arise out of an immoral (or illegal) inducement (or consideration)", found in tort and contract law is one such example. Another example is the various 'slayer rules' which disqualify murderers from inheriting from their victims, that is, denying an otherwise lawful heir her claim against the victim's estate (where the estate stands for the deceased) due to her wrongdoing. See e.g., Code Napoleon, paragraph 727 (a murderer or one who attempted murder shall not inherit from his victim); *Riggs v. Palmer*, 22 N.E. 188 (1889); Marcianus D.34.9.3. (In Roman law, the slayer rule was one instance of the more general idea of *indignus succedendi*, that is, being unworthy of succeeding); Forfeiture Act, 1982, c. 34 (Eng.). Another example is the *reduced* duty of care that occupiers owe trespassers in tort law. See e.g. the English *Occupiers' Liability Act 1984*.

continuing to enjoy the fruits of their wrongdoing. Accordingly, profiting or benefiting from one's wrongdoing often appears an additional disvalue to the wrong itself. As already explained, directing without standing wrongs the directive's target. To allow the wrongful intervener to enjoy the fruit of her wrongdoing – that is, allowing her to get her way by letting her wrongful imposition on another's liberty continue unchecked – is repugnant. Given that we are dealing with a scenario in which the directive-reason has already been given, providing for an option to disregard such a valid yet ongoing wrongful directive seems the most reasonable avenue for foiling wrongdoers benefiting from their wrongs at the expense of their victims.

Third, a permission to exclude even obligating directives is in line with at least many of the values, discussed above, underlying practices of *TMK*. As we already saw, liberty, autonomy, privacy, intimacy etc. are the sort of values that warrant protected spheres of choice, counting in favor of *permissions* to exclude certain interventions. When such liberal values are at stake, often what matters is less what we do and more that it is we who decide what to do, even at the price of certain normative errors and unreasonable conduct.

Finally, the plausibility of permissions to exclude even obligating reasons is enhanced when noticing other normative categories (more widely recognized than “standing”) that also provide for protection or a license to act against the balance of reasons. Standing does not, if you will, stand alone. One such category is ‘right to do wrong’, under which one enjoys

protection from certain interventions with one's choice to breach one's duties.<sup>45</sup>

A second category is supererogation. Supererogation also permits not acting on the balance of reasons. Supererogatory actions are praiseworthy even though failing to perform them is not blameworthy. The praiseworthiness of supererogatory actions suggests there must be conclusive reasons in their favor. But how then is one not blameworthy for not acting on the balance of reasons? Thus, although many accept the existence of supererogatory actions, the category seems incoherent. Raz's way of explaining the coherence of supererogation is to invoke the idea of the exclusionary permission.<sup>46</sup> Although norms of supererogation allow acting against the balance of reasons, they do so as second-order reasons of exclusion, and therefore do not clash with the balance of first-order reasons, avoiding incoherence.<sup>47</sup>

Also involving exclusionary permissions, norms of standing are arguably at least partially akin to norms of supererogation. The repugnancy of what I called 'normative coercion' and of one benefiting from one's victim by

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<sup>45</sup> Waldron, 'A right to Do Wrong'; Herstein, 'Defending the right To Do Wrong.'

<sup>46</sup> Raz, 'Practical Reasons and Norms', pp. 91-97.

<sup>47</sup> As for the grounds of such permissions, I will here just assume that supererogation is a genuine moral category.

victimizing him, as well as the values at stake in cases of *TMK*, such as autonomy, respect, and privacy, push matters of *TMK* into a neighborhood nearing that of supererogation. In fact, it is not implausible to describe some of the examples given throughout the paper in terms of supererogation. For instance, it would be good to grant the request of one's hypocritical friend or to adhere to a stranger's meddlesome yet sensible intervention in one's spat with one's spouse; still, if one decides not to do so, one would not be to blame; it is, in a sense, a permissible choice not to act on the balance of reasons. Thus, although perhaps not identical, some of the more puzzling features of norms of standing are arguably also found in the far more familiar norms of supererogation.

Thinking of standing as akin to supererogation also fits the fact, explored above, that when we enjoy the permission to disregard directives we, nevertheless, often choose to take those directives into account and even act on those directives, thereby choosing not to exercise our permission to exclude them. And doing so tends to come with a sense that one has 'gone beyond the call of duty'. For instance, I can imagine talking with my hypocritical friend while driving her to the airport saying, "You know, I don't *have* to do this." The supererogatory flavor of standing norms is also apparent in the resentment we sometimes feel at being put in the position of having to choose whether or not to disregard an intervention issued without standing – sensing the obligating force of such interventions, we can feel conflicted as we appreciate the normative price that comes with disregarding

them.

## 5 THE LIMITS OF STANDING

Even if I am right about the form of the justification of the normativity of standing as reflected in practices such as *TMK*, it is important to note that not all interventions into the affairs of others involve a breach of a duty of nonintervention and a permission to disregard. First, our practices themselves are measured – not all interests of privacy, autonomy, or equal respect are considered protected from interventions. Second, our practices can, at least in principle, overreach – not all interventions setting back the various interests involved in *TMK* practices violate *moral* standing, even if that were the social norm or legal practice. After all, there are at times reasons in favor of intervening and against resisting interventions, reasons which may defeat the reasons in favor of a duty to the contrary or of a permission to resist an intervention. The fact is that even hypocritical or meddling interventions into the affairs of others may nevertheless serve a slew of valuable functions. Discussing standing to blame, Macalester Bell rightly points out that:

“[W]hile people may manifest hypocrisy and other faults in their critical interventions, there is no reason to conclude that these faults always undermine a person’s standing to blame. As we have seen, blame has multiple aims and modes of value.”<sup>48</sup>

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<sup>48</sup> Bell, ‘The Standing to Blame: A Critique’, p. 275.

All I claim here is that along with other considerations mentioned above, the values that practices such as *TMK* typically serve to protect are of the type that is typically weighty enough to ground at least *pro tanto* duties of nonintervention and to similarly license disregarding such interventions. Yet, even if they do so typically, the reasons underlying the normativity of standing do not *necessarily* defeat conflicting reasons in favor of permitting interventions or against discounting or excluding them. Whether such conflicting reasons prevail of course will depend on the specific circumstances. For example, the values of marital privacy and intimacy certainly do not amount to excluding third parties from intervening in domestic abuse and do not license abusive husbands to resist others' attempts at intervening.

## 6 CONCLUSION

We began with a description of a normative structure that I labeled "standing." Norms of standing involve conditions under which one is forbidden from intervening in the affairs of others as well as determine how one may react when intervened with by those who lack the standing to do so. This normative structure or form of standing appears in various familiar practices, which I grouped into three general (non-exhaustive) categories: '*tu quoque*', '*mind your own business*', and '*know thy place*' (or '*TMK*' for short). Each category turns on a different type of *ad hominem* facts upon which social norms of standing supervene, denying standing in cases of intervening hypocritically, out of meddling, or without the requisite status.

The normativity of standing turns on facts about the intervening party and not on the validity of their intervention. Accordingly, standing does not exhibit the logic of invalidation and, therefore, is not a norm of power and authority. Rather, norms of standing are norms that license resisting even *valid* interventions. And, as explained, when such interventions take the form of directives, norms of standing provide a license to resist in the form of a permission to exclude those directives.

Of the normative structure of standing, the feature that most calls for clarification is how intervening under the conditions of *TMK* licenses discounting, disregarding as well as frustrating the issuing or performance of what appear valid and even obligating interventions. For example, why is it permissible to disregard a valid condemnation simply because its issuer is an outsider or a stranger to the proceedings, or lacks status, or is hypocritical?<sup>49</sup>

The justifications I offered for these atypical norms are predicated on the values that these standing practices reflect and protect, such as moral equality, privacy, autonomy, and valuable relationship. Values that typically justify standing's *pro tanto* duties of nonintervention and license disregarding (even conclusive) interventions performed in breach of those duties. Moreover, these values, along with further considerations mentioned above,

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<sup>49</sup> Notice that condemnation gives reasons for both belief and action. See Herstein, 'Understanding Standing: Permission to Deflect reasons, pp. 3116-3118.



can justify excluding even obligating directives. Yet, as explained, these arguments in favor of standing practices are not meant as all-things-considered justifications. Competing reasons can, on occasion, defeat them.

Finally, I have said little about the standing of political authorities and law. The focus here was mainly on the interpersonal context. Moreover, little attention has been given to the specifics of authoritative directives as opposed to other directives. Yet, a few words are, I think, in order. When an authority is legitimate, we normally ought to do what the authority directs us to do, on the grounds that the authority directed us to do so. Authoritative reasons are, therefore, a type of directive-reason. Yet, can legitimate authority lack standing? Is there a distinction between the 'right to rule' (in the sense of having *standing* to rule through law) and the legitimacy of one's rule (in the sense of moral *power* to issue laws)? Extrapolating from the interpersonal context, I believe the answer is 'yes'. The right to *exercise* authority does not necessarily always accompany holding (legitimate) authority. One type of example is cases of reformed and now legitimate regimes guilty of past injustices. The gap between the genuine moral validity of the laws of such authorities and the occasionally questionable standing of those authorities to exercise those laws is apparent in the occasional understandably indignant and resentful attitudes that victims of those past

injustices and their descendants hold towards the regime and its laws.<sup>50</sup>

## **7 EPILOGUE: WHY EXPLAIN AND JUSTIFY STANDING?**

The normative structure of standing appears in numerous facets of human interaction. Arguments from standing are regularly deployed to block and disregard both actions and speech of various types. In addition, practices of standing are prominent, albeit more clandestinely, in deterring those without standing from even attempting to intervene for worry of condemnation and rejection. Also important is how the normativity of standing is animated in various doctrines of legal standing. Appreciating the logic of the normative structure of standing and its justifications is, therefore, important for assessing standing's many and various practical manifestations.

Moreover, standing is a precarious practice. Practices of standing are easily distorted. It is not always obvious whether the conditions determinative of standing obtain (e.g., is it or isn't it 'your business?'). Thus, while there is a truth-value to propositions about who does or does not have standing, there is often no agreement or obvious way for determining the matter. This is precarious, because standing is a very efficient tool for defeating opponents in that it permits silencing and disregarding others because of who they are without having to engage them substantively.

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<sup>50</sup> For thoughts along these lines in the context of the criminal law see Antony Duff, 'Blame, Moral Standing and the Legitimacy of the Criminal Trial', *Ratio* 23 (2010), pp. 123-40.

Considering that at times it is not clear to people who in fact has and who does not have standing, the social availability of standing-claims opens the door to error, self-deception, and manipulation in how social standing norms are in practice deployed, which often results in excluding, discriminating, and silencing others who may actually have the requisite standing to intervene and participate. Nowhere is this truer and more destructive than in politics and international affairs.

Standing is a precarious practice also because practices of standing are regrettably often deployed with the purpose of challenging the truth-value of both factual and normative propositions, as if the identity of the speaker is determinative not only of her standing to interject but also of whether or not what she says is true or whether her prescriptions are for doing the right thing. Although common, such practices are patently irrational, suffering from an obvious *ad hominem* fallacy.<sup>51</sup>

Accordingly, the norm of standing is often misused and misunderstood, leading to silencing legitimate criticism, negating true propositions, unjustly undermining credibility, spreading mistrust, debasing nuance, derailing self-reflection and corrupting both private and public discourse. Which is why clarifying both the logic of standing and when and why standing norms *are*

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<sup>51</sup> For a recent discussion of the fallacy see Uri D. Leibowitz, 'Moral Deliberation and *Ad Hominem* Fallacies', *Journal of Moral Philosophy* 13 (2016), pp. 507-29.

justified is an important and worthwhile endeavor.<sup>52</sup>

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<sup>52</sup> This paper has benefited from the comments of more people than I can mention here. Among them, I am especially grateful to David Enoch, Anna Finkelstern, Miguel Herstein, Uri D. Leibowitz, Joseph Raz, Arthur Ripstein, Sergio Tenenbaum, Shlomit Wygoda, and the blind reviewers for *Philosophers' Imprint*.